



# PUBLIC NOTICE

Federal Communications Commission  
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Washington, D.C. 20554

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**WIRELESS TELECOMMUNICATIONS BUREAU EXTENDS FREEZE  
ON HIGH POWER USE OF 460-470 MHZ BAND OFFSET CHANNELS  
AND  
SEEKS COMMENT ON AMERICAN HOSPITAL ASSOCIATION'S PROPOSAL  
FOR MIGRATION OF MEDICAL TELEMETRY EQUIPMENT TO  
WIRELESS MEDICAL TELEMETRY SERVICE**

**Comment Date: October 30, 2003**

**Reply Date: November 10, 2003**

The Wireless Telecommunications Bureau (Bureau) announces that the freeze on the filing of applications for high power operations on 12.5 kHz offset channels in the private land mobile radio (PLMR) 460-470 MHz band will continue for up to 180 days.<sup>1</sup> The Bureau is extending the duration of the freeze to allow it to consider a proposal and new information filed by the American Hospital Association (AHA) on September 23, 2003 (AHA Plan).<sup>2</sup> By this Public Notice, the Bureau also seeks comment on the AHA Plan.

*Background.* In 1995, the Commission adopted a new, more efficient channel plan for PLMR services in the 450-470 MHz band<sup>3</sup> that redesignated "offset" channels for high power, primary use. Previously, medical telemetry systems used these "offsets" on a secondary, noninterference basis to primary PLMR operations.<sup>4</sup> Recognizing that co-channel, high power operations could result in interference to medical telemetry operations, the Bureau froze the filing of applications for high power

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<sup>1</sup> Twenty-one channel pairs and four unpaired frequencies ("Group C") in the 450-470 MHz band are designated for low power use on a licensed, frequency coordination exempt, itinerant basis. See 47 C.F.R. § 90.267(e). In addition to the freeze on applications for high-power offsets in the 460-470 MHz band, ten of the "Group C" channels are unavailable for itinerant licensing until the conclusion of the medical telemetry migration deadline. See 47 C.F.R. § 90.267(e)(3).

<sup>2</sup> See Letter from Rick Pollack, Exec. Vice Pres., American Hospital Assoc., to John Muleta, Chief, Wireless Telecommunications Bureau, FCC, dated Sept. 23, 2003 (AHA Plan). On October 13, 2003, the Land Mobile Communications Council submitted a letter to the Bureau opposing the AHA Plan (via e-mail). We believe that it is in the public interest to submit this letter into the record as comments received in response to this public notice. See Letter from Larry Miller, President, Land Mobile Communications Council, to John Muleta, Chief, Wireless Telecommunications Bureau, FCC, dated Oct. 13, 2003.

<sup>3</sup> See Replacement of Part 90 by Part 88 to Revise the Private Land Mobile Radio Services and Modify the Policies Governing Them and Examination of Exclusivity and Frequency Assignment Policies of the Private Land Mobile Services, *Report and Order*, PR Docket No. 92-235, 10 FCC Rcd 10076 (1995).

<sup>4</sup> Under the Part 90 channel plan prior to 1995, medical telemetry equipment operated on special channels offset 12.5 kHz from the center frequency of the primary 25 kHz channels. This frequency offset, combined with the lower power limit on these channels, minimized the possibility of interference caused or received by medical telemetry equipment.

operations on offset channels in the 450-470 MHz band pending resolution of the medical telemetry issues.<sup>5</sup>

In June 2000, the Commission established the Wireless Medical Telemetry Service (WMTS),<sup>6</sup> an action aimed at ensuring that medical telemetry devices can operate free of harmful interference. WMTS is allotted a total of 13.5 megahertz of spectrum on a primary basis in three blocks (608-614 MHz, 1395-1400 MHz, and 1427-1429.5).<sup>7</sup> In establishing the WMTS, the Commission encouraged hospitals to migrate their medical telemetry operations from the 460-470 MHz band to the new WMTS bands.<sup>8</sup> To accommodate this migration, the Commission stated its intention to lift the freeze on applications for high power use of offset channels in the 460-470 MHz band within three years of the effective date of the WMTS rules.<sup>9</sup>

*AHA Plan.* On September 23, 2003, AHA reported that, based on its recent, informal polling of hospitals, there has been virtually no migration of medical telemetry systems to the WMTS frequencies.<sup>10</sup> AHA notes that high power use in the 460-470 MHz band has the potential to interfere with existing medical telemetry systems that have not moved to the WMTS frequencies and recognizes that the land mobile radio community is eager to obtain the full utilization of this band.<sup>11</sup> In this connection, AHA states that “no one will benefit if widespread interference to medical telemetry services results from the

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<sup>5</sup> This freeze was also imposed pending the establishment of a low power consensus plan to resolve issues related to low power PLMR operations on the offsets. *See Freeze on the Filing of High Power Applications for 12.5 kHz Offset Channels in the 450-470 MHz Band, Public Notice*, 10 FCC Rcd 9995 (WTB 1995). In 1997, the Commission instituted an exception to this freeze by allowing new high power systems to be licensed on any former 12.5 kHz offset channel not specifically designated for low power use if the license applications were accompanied by a statement from a frequency coordinator attesting that operation of a new high power system would not have an impact on any currently operating co-channel low power system. *See Replacement of Part 90 by Part 88 to Revise the Private Land Mobile Radio Services and Modify the Policies Governing Them and Examination of Exclusivity and Frequency Assignment Policies of the Private Land Mobile Services*, PR Docket No. 92-235, *Second Report and Order*, 12 FCC Rcd 14307, 14343 ¶ 67 (1997). The low power issues were resolved in June 2000, and the freeze on applications for offsets in the 450-460 MHz band was lifted in early 2001. Because most medical telemetry systems operated between 460-470 MHz, the Bureau maintained the 460-470 MHz freeze. *See Freeze on the Filing of High Power Applications for 12.5 kHz Offset Channels in the 450-460 MHz Band to be Lifted January 29, 2001, Public Notice*, 15 FCC Rcd 9996 (WTB PSPWD 2000).

<sup>6</sup> Amendment of Parts 2 and 95 of the Commission’s Rules to Create a Wireless Medical Telemetry Service, *Report and Order*, ET Docket No. 99-255, 15 FCC Rcd 11206 (2000) (*WMTS R&O*).

<sup>7</sup> *See* 47 C.F.R. § 95.630. At seven locations listed in 47 C.F.R. § 90.259(b)(4), WMTS may operate on a primary basis in the 1429-1431.5 MHz band (rather than in the 1427-1429.5 MHz band).

<sup>8</sup> *WMTS R&O*, 15 FCC Rcd at 11225 ¶ 57 (Commission’s goal was to provide spectrum where medical telemetry equipment can operate without interference, but also to encourage medical telemetry users to eventually migrate out of the current bands). “Despite the fact that medical telemetry has no legal protection from interference in [the current] bands, the fact remains that the Commission has had to take steps to protect medical telemetry from interference because it is used to protect safety of life. The steps the Commission has taken, such as the freeze in the 450-470 MHz band and the requirement for DTV stations to notify nearby health care facilities, affect other parties. We therefore wish to encourage medical telemetry users to migrate out of the current frequency bands and into the new frequency bands.” *Id.*

<sup>9</sup> *Id.* at 11227 ¶ 65. The WMTS rules, became effective on October 16, 2000. Thus, the freeze would be subject to lifting on or before October 16, 2003.

<sup>10</sup> AHA Plan at 2.

<sup>11</sup> *Id.* at 2-3.

premature use of this band by higher-powered land mobile systems.”<sup>12</sup> To address this matter, AHA proposes a thirty-month plan for the transition of medical telemetry equipment into the WMTS frequencies.

A summary of the major components of the AHA Plan is as follows:

- As soon as it determines it is appropriate, the FCC should announce its intent to lift the freeze on accepting applications for high power operations in the 460-470 MHz band starting six months after the announcement is made.
- During the first five months after the announcement, the AHA, in conjunction with the FCC and the Food and Drug Administration, would notify all hospitals of the need to register their geographic location and the channels they are using in the 460-470 MHz band with the American Society for Health Care Engineering (ASHE), the database administrator for the WMTS.
- Beginning in the sixth month following the FCC announcement, land mobile coordinators would be authorized (with payment of appropriate fees designed only to cover ASHE’s cost for such searches) to access and search the ASHE database as part of the function by which they would coordinate the higher-powered land mobile use of the 460-470 MHz band; using a 40-mile protection distance between the land mobile base station and any hospitals registering systems in the WMTS, the coordinators would assign channels for higher-powered land mobile operations only on channels in the band that would not create co-channel or adjacent channel interference to a hospital that registered its operations in the 460-470 MHz band.
- Hospitals registering their 460 MHz band systems with ASHE will be obligated to notify ASHE promptly after they have terminated their use of any channels in the 460 MHz band, and the AHA will continue to encourage all medical facilities to move to WMTS channels as soon as practical. Beginning with the 18<sup>th</sup> month after the FCC’s announcement, to the extent that no better alternatives were available, the land mobile coordinators would be authorized to utilize a 20-mile protection distance, and any hospital experiencing interference would be required to work directly with those land mobile licensees who are licensed in their geographic area to mitigate such interference, but without any recourse to require any changes to the land mobile licensee who is operating within its licensed parameters.
- Following the 30<sup>th</sup> month after the FCC announcement, land mobile coordinators would be authorized, using good engineering analysis, to license any available frequency without reference to the existence of wireless medical telemetry systems remaining on channels in the 460 MHz band.

Interested parties may file comments on the AHA Plan on or before **October 30, 2003**. Parties interested in submitting reply comments must do so on or before **November 10, 2003**. All comments should reference the AHA Plan and the DA number of this *Public Notice*, and should be filed with the Office of the Secretary, Federal Communications Commission, 445 Twelfth Street, S.W., TW-325, Washington, D.C. 20054. A copy of each filing should be sent to (1) Qualex International, Portals II, 445 12<sup>th</sup> Street, SW, Room CY-B402, Washington, D.C. 20554, (202) 863-2893; (2) John Kuzma, Federal Communications Commission, Wireless Telecommunications Bureau, Public Safety and Private Wireless Division, Policy and Rules Branch, 445 Twelfth Street, SW, Room 4-B479, Washington, D.C. 20554; and (3) Maria Ringold, Federal Communications Commission, Consumer and Governmental

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<sup>12</sup> *Id.* at 2.

Affairs Bureau, Reference Information Center, 445 Twelfth Street, S.W., Room CY-B529, Washington, D.C. 20554.

The address for FCC locations should be used only for documents filed by United States Postal Service first-class mail, Express Mail, and Priority Mail. Hand-delivered or messenger-delivered documents for the Commission's Secretary are accepted only by the Commission's contractor, Natek, Inc., at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering 236 Massachusetts Avenue, N.E. Other messenger-delivered documents, including documents sent by overnight mail (other than United States Postal Service Express Mail and Priority Mail) should be addressed for delivery to 9300 East Hampton Drive, Capitol Heights, MD 20743. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.<sup>13</sup>

The full text of the AHA Plan, comments and reply comments will be available for inspection and duplication during regular business hours in the FCC Reference Information Center (RIC) of the Consumer and Governmental Affairs Bureau, Federal Communications Commission, 445 12th Street, S.W., Room CY-A257, Washington, D.C. 20554. Copies also may be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12<sup>th</sup> Street, S.W., Room CY-B402, Washington, D.C. 20554, (202) 863-2893, facsimile (202) 863-2898, or via e-mail [qualexint@aol.com](mailto:qualexint@aol.com). For further information regarding the public reference file for the AHA Plan, contact Maria Ringold, Chief, Wireless Branch, RIC, (202) 418-1355.

This matter is designated as a "permit but disclose" proceeding in accordance with the Commission's ex parte rules. 47 C.F.R. §§ 1.1200(a), 1.1206. Persons making oral ex parte presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. *See* 47 C.F.R. § 1.1206(b). Other rules pertaining to oral and written ex parte presentations in permit-but-disclose proceedings are set forth in Section 1.1206(b) of the Commission's rules. 47 C.F.R. § 1.1206(b).

The decision to extend the freeze is procedural in nature and therefore not subject to the notice and comment and effective date requirements of the Administrative Procedure Act. Moreover, there is good cause for not using notice and comment procedures in this case, or making the freeze extension effective 30 days after publication in the Federal Register. We find that such procedures would be impractical, unnecessary and contrary to the public interest as our compliance would undermine the public policy rationale of the freeze in the first place. The decision to impose a temporary extension of the freeze is not intended to reflect on the ultimate resolution of the use of this band, but is intended to maintain the Commission's regulatory options in the band pending the resolution of such issues described herein and to the continue to protect against harmful interference to medical telemetry operations pending such resolutions. This action is authorized under Sections 4(i), 4(j), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), 303(r), and is taken under delegated authority pursuant to Sections 0.131 and 0.331 of the Commission's Rules, 47 C.F.R. §§ 0.131, 0.331.

For further information, contact Mr. John Kuzma, of the Policy and Rules Branch of the Public Safety and Private Wireless Division of the Wireless Telecommunications Bureau at (202) 418-7479, TTY (202) 418-7233, or via e-mail to [john.kuzma@fcc.gov](mailto:john.kuzma@fcc.gov).

By the Acting Chief, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau.

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<sup>13</sup> See FCC Announces a New Filing Location for Paper Documents and a New Fax Number for General Correspondence, *Public Notice*, 16 FCC Rcd 22165 (2001).